

FOURTH CIRCUIT BRIEF & APPENDIX REQUIREMENTS

BRIEF CONTENTS – See Federal & Local Rules 28, 28.1, 29 for complete information.

Required Contents	Brief Type
Brief Cover	All briefs. <u>Brief Cover-District Court Appeal</u> , <u>Brief Cover-Agency Appeal</u>
Corporate Disclosure Statement	If disclosure statement required by Loc. R. 26.1, copy must be included in initial brief of party or amicus.
Table of Contents	All briefs
Table of Authorities	All briefs (cases alphabetically arranged, statutes and other authorities, with references to the page of the brief where they are cited)
Statement of identity, interest & authority to file	Amicus briefs (filed either during consideration of the merits or during consideration of whether to grant rehearing)
Statement regarding participation by parties, their attorneys, or other persons in funding or authoring the brief	Amicus briefs (filed either during consideration of the merits or during consideration of whether to grant rehearing)
Jurisdictional Statement (subject matter & appellate jurisdiction)	Opening briefs and opening/response briefs
Statement of Issues	Opening briefs and opening/response briefs
Statement of Case (relevant facts with appendix references, procedural history, rulings presented for review)	Opening briefs. Not required in appellee's response or opening/response brief if appellee is satisfied with appellant's statement of case.
Summary of Argument (succinct statement of arguments)	All except reply and amicus briefs
Argument (discussion of issues, with standard of review stated either in a separate heading before the discussion of issues or placed in the discussion)	Argument section is required in all briefs. Statement of standard of review is required only in opening and opening/response briefs unless the responding party is dissatisfied with the stated standard.
Conclusion (relief sought)	Opening briefs and opening/response briefs
Request for Oral Argument (if any)	Opening, opening/response, and response briefs
Signature of Counsel	All briefs
Certificate of Compliance with Type-Volume Limit	All briefs. Not required if brief is within applicable page limitations. <u>Form-Certificate of Compliance with Type-Volume Limit</u>
Certificate of Service	All briefs. <u>Form-Certificate of Service</u> , <u>Form-Certificate of Service of Anders Brief</u>

BRIEF FORMAT – See Federal & Local Rules 25, 28, 28.1, 29 & 32 for complete information.

Cover Color: Standard Schedule	Blue for opening. Red for response. Gray for reply.
Cover Color: Cross-appeal Schedule	Blue for opening. Red for opening/response. Yellow for response/reply. Gray for reply.
Cover Color: Amicus or Intervenor	Green. Amicus briefs filed during consideration of whether to grant rehearing are filed in electronic form only, and the electronic cover may be white.
Cover Color: Supplemental	Tan
Cover Color: Electronic	White or same color as paper cover.
Brief Cover Content	Fourth Circuit docket number, centered at top (do not include district or agency docket number), followed by "United States Court of Appeals for

	the Fourth Circuit," followed by full case title, followed by "Appeal from the U.S. District Court for the District of ...," followed by "Brief of Appellant John Doe," followed by names, addresses, and phone numbers of counsel participating in preparation of brief. The cover of an amicus brief must identify the party or parties supported and indicate whether the brief supports affirmance or reversal.
→ <u>Brief Binding</u>	<u>Binding must be secure down full left side and must not obscure text. Acceptable bindings include spiral and perfect binding (no staples or clips).</u>
Brief Paper	8 1/2 x 11" light paper with clear black image, and 1" margin on all sides.
Brief Text	Text must be double-spaced (quotes > 2 lines, headings, & footnotes may be single-spaced but may not be in a smaller font size). Electronic version must be text-searchable.
Appendix References in Brief	References in support of factual statements must be to the appendix (or to the administrative record if it is adopted as the appendix). If electronic appendix excerpts are filed, rather than a full electronic appendix, parallel references must be provided to the paper appendix and to the district court docket entry and page number (JA 25; DE 3 at 20).
Hyperlinks in Brief	Hyperlinks may be included to other portions of the same document, other documents filed on appeal, documents in the district court record, statutes, rules, regulations, or opinions. Citations must be provided in addition to any hyperlink.
Addenda & Attachments to Briefs	Statutes, rules, and regulations requiring study by the court and unpublished dispositions that are not available in a publicly accessible electronic database should be included in an addendum at the end of the brief. If counsel wishes to supplement the brief with any other matters, the additional material must be presented to the court under separate cover, accompanied by a motion to file the material as an attachment to the brief.
Brief Font	If a proportional font is used (e.g., Times New Roman), font size must be 14 point. If a monospaced font is used (e.g., Courier New), font size must be 12 point. If a proportional font is used, the typeface must have serifs (small horizontal or vertical strokes at the ends of the letters). Sans-serif type, such as Arial, may not be used except in captions and headings.
Length of opening brief, response brief & response/reply brief	≤ 30 pages or ≤ 13,000 words or ≤ 1,300 lines (applies only to monospaced font)
Length of opening/response brief	≤ 35 pages or ≤ 15,300 words or ≤ 1,500 lines (applies only to monospaced font)
Length of reply brief or amicus brief	≤ 15 pages for reply or amicus brief or ≤ 6,500 words for reply or amicus brief or ≤ 650 lines (applies only to monospaced font) An amicus brief in support of an opening/response brief in a cross-appeal may contain up to 7,650 words. An amicus brief filed during consideration of whether to grant rehearing may not exceed 2,600 words.
Note on Word Count: When using Microsoft Word to review the "Word Count," you must select the check box next to "include textboxes, footnotes and endnotes" in the Word Count dialogue window for footnotes to	

be included in the total. **Include** all footnotes, headings, and quotations in a word or line count. **Exclude** all of the following from a word or line count: cover page, corporate disclosure statement, table of contents, table of authorities/citations, request for argument, addendum, signature block, and certificates of counsel.

→ Brief Copies

Single-sided copying is required.

File 1 electronic version and 1 paper copy. The paper copy must be mailed, dispatched to a third-party commercial carrier, or delivered to the clerk's office within one business day of filing the electronic version. If the case is tentatively calendared for oral argument, all filers are required to file 3 additional paper copies.

Service of paper copies is not required for parties served electronically through ECF.

A paper copy of an amicus brief filed at the petition for rehearing stage is **not** required.

Sealed and Public Versions of Briefs

If sealed information is included in the brief, counsel must file both sealed and public versions of the brief.

File 1 electronic and 1 paper copy of the sealed version of the brief, with sealed material highlighted, and file a **certificate of confidentiality**. If the case is tentatively calendared for oral argument, all filers are required to file 3 additional paper copies.

Service of paper copies of the sealed version of briefs is required since parties cannot access the electronic version.

Form-Certificate of Confidentiality

Memorandum on Sealed and Confidential Materials

APPENDIX CONTENT – See Federal & Local Rules 30 & Local Rule 25(a)(1)(D) for complete information.

→ Required Appendix Contents

The parties should include in the joint appendix all portions of the record necessary to review of the matters presented. Failure to include all necessary portions will result in return of the appendix for correction. The following must be included in the appendix in chronological order on consecutively numbered pages:

-
- Cover
 - Table of contents
 - District court docket report
 - Complaint as finally amended (civil) or indictment (criminal)
 - Relevant portions of pleadings, transcript, charge, findings, opinions
 - Final opinion and order appealed
 - Notice of appeal

If there is more than 1 volume of appendix, either the full table of contents or the portion applicable to the particular volume must be included with each volume of appendix.

Appendix Table of Contents

A detailed table of contents is required. When transcript is included, each witness must be identified, along with the page on which that witness's testimony begins. Exhibits must be identified by number, description, and page on which they begin.

Criminal Presentence Reports and Statements of Reasons

The presentence report and statement of reasons must be included in a sealed volume of appendix in any appeal raising a sentencing guideline challenge.

Appeals under <u>Anders v. California</u> , 386 U.S. 738 (1967)	Appendices are not filed in <u>Anders</u> appeals; instead, the court obtains and reviews the record. Appendix costs are not reimbursable under the CJA in <u>Anders</u> cases unless the court has directed or authorized filing of an appendix.
Administrative Records	<p>If the agency files the administrative record in electronic form, appellant may adopt the administrative record in lieu of filing an electronic appendix and file 1 paper copy of the Administrative Record securely bound down the left side, with a white cover. Double-sided copying is preferred. If the case is tentatively calendared for oral argument, 3 additional paper copies are required.</p> <p>In social security appeals, appellant must also file electronic and paper versions of an appendix containing any district court documents necessary for appellate review. If the administrative record is filed in paper form in a social security appeal, appellant must include any necessary documents from both the administrative record and the district court record in the electronic and paper versions of the appendix.</p>
APPENDIX FORMAT – See Federal & Local Rules 31 & 32 & Local Rule 25(a)(1)(D)	
→ Full Electronic Appendix (option 1)	Appendices must be filed in <u>electronic and paper form</u> . If there is more than 1 volume of appendix, each electronic volume of appendix must correspond to each paper volume. (If volume is too large to upload as one electronic file, split volume into parts A and B.) Sealed documents must be placed in separate, sealed volumes and filed using the Sealed Appendix entry.
Electronic Appendix Excerpt (option 2)	<p>Under option 2, appellant files an electronic appendix excerpt containing the following excerpts from the appendix:</p> <ul style="list-style-type: none"> • any sealed documents (filed as a sealed appendix); • any paper documents • any party filings in a social security case • any pertinent opinion, findings, magistrate report, or bankruptcy opinion • the opinion and order being appealed • the notice of appeal <p>The excerpts should appear in the same order and with the same page numbers as in the full paper appendix. When the electronic excerpt option is used, all references in the brief must be to both the full paper appendix and the docket entry and page number of the district court record (JA 81; DE 20 at 5). This option, while available under Local Rule 25(a)(1)(D), is more confusing than filing full electronic and paper versions of the appendix and, as a result, has not been used by counsel.</p>
Appendix Text	It is strongly preferred, but not mandatory, that the electronic version be text searchable.
→ <u>Appendix Cover</u>	<p>Appendix covers are white and contain the following information: Fourth Circuit docket number, centered at top (do not include district or agency docket number), followed by "United States Court of Appeals for the Fourth Circuit," followed by full case title, followed by "Appeal from the U.S. District Court for the District of ...," followed by "Appendix," followed by names, addresses, and phone numbers of counsel on both sides of the case.</p> <p><u>Appendix Cover-District Court Appeal, Appendix Cover-Agency Appeal</u></p>
→ <u>Appendix Binding</u>	Appendices must be securely bound down full left side in a manner that does not obscure text and permits the appendix to lie reasonably flat when open. Acceptable bindings include spiral and perfect binding (no

	staples or clips). Each bound volume should not exceed 1 ½" in thickness. Exhibit volumes must be bound unless binding is impracticable.
Transcript	The name of the testifying witness and type of examination (direct, cross, deposition) must be clearly indicated at the top of each page of in-court or deposition testimony included in the appendix. The court will not accept appendices containing "condensed" transcript wherein several pages of transcript appear on a single sheet.
Length of Appendices	In court-appointed cases, if the appendix exceeds 250 sheets (500 pages) without leave of court, reimbursement of copying costs will be limited to 250 sheets unless counsel has been granted leave to exceed length limitations.
Appendix Copies	<p>→ <u>Double-sided copying of appendices is preferred in all cases.</u></p> <p>File 1 electronic version and 1 paper copy of the appendix, including any exhibit volumes. If the case is tentatively calendared for oral argument, 3 additional paper copies must be filed.</p> <p>Service of paper copies is not required for parties served electronically through ECF with the full electronic appendix (option 1). Service of paper copies is required if an electronic appendix excerpt (option 2) was used.</p>
Sealed Appendix Volumes	<p>Sealed record documents that are included in the appendix must be placed in a separate, sealed volume of the appendix. In consolidated criminal appeals, these materials must be separately sealed as to each defendant by marking the volume and envelope as SEALED – [DEFENDANT'S NAME] and serving the volume only on the government and counsel for the named defendant.</p> <p>File 1 electronic copy and 1 paper copy of sealed volumes of appendix, and file a certificate of confidentiality. If the case is tentatively calendared for oral argument, 3 additional paper copies must be filed.</p> <p>Service of paper copies of the sealed appendix volumes is required since parties cannot access the electronic version.</p> <p><u>Form-Certificate of Confidentiality</u> <u>Memorandum on Sealed and Confidential Materials</u></p>
Exhibit Volumes of Appendix— Digital Media	Any digital media must be placed in a separate exhibit volume of the appendix with a cover and table of contents. The following information must be included in the table of contents or in a separate statement following the table of contents: (1) description of the record exhibit; (2) identification of a file format compatible with Windows Media Player (e.g., mp3, mp4, wav); and (3) statement that media was confirmed virus-free through virus scan. Identical electronic and paper versions of the exhibit volume must be filed, with the physical media placed in the paper version. Exhibits that were not part of the record below may not be included in the appendix and may be filed only with leave of court.
→ ECF FILING EVENTS	
Document	ECF event
Public Brief	<p>BRIEF (formal, non-sealed briefs/electronic & paper form)</p> <p>Amicus Curiae/Intervenor Brief (with appearance of counsel form)</p>
Sealed Version of Brief	SEALED BRIEF

	Certificate of confidentiality
Rule 30(c) Page-Proof Brief filed under Rule 30(c) schedule prior to final brief	Rule 30(c) page-proof opening brief (no paper copies required) Rule 30(c) page-proof opening/response brief (no paper copies required) Rule 30(c) page-proof response brief (no paper copies required) Rule 30(c) page-proof response/reply brief (no paper copies required)
Public Appendix	<u>APPENDIX (electronic & paper form)</u>
Sealed Volume of Appendix	SEALED APPENDIX Certificate of confidentiality
Administrative Record filed electronically by government	Administrative record (electronic form)
Administrative Record filed in paper form by government	Notice of paper or manual filing
Administrative Record adopted by appellant & paper copy filed	Administrative record adopted (paper copy filed)